FILE COPY

Office - Supreme Court, U. S.
FILED
APR 14 1947
CHARLES ELMORE CROPLEY
CLERK

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 1240

ISAAC T. RACKLEY,

Petitioner,

vs.

THE UNITED STATES OF AMERICA

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

Isaac T. Rackley,
Pro Se.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 1240

ISAAC T. RACKLEY,

Petitioner,

vs.

THE UNITED STATES OF AMERICA,

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

MAY IT PLEASE THE COURT:

The Petition of Isaac T. Rackley respectfully shows this Honorable Court:

1

At the term of Court held by the United States District Court in and for the Western District of Texas, beginning October 7, 1946, and terminating April 6, 1947, Petitioner was indicted by the Grand Jury empanelled by said Court, and charged by four counts in said indictment with exporting and attempting to export automobile casings to Mexico without permit being issued authorizing said exportation. On a fifth count in said indictment Petitioner was charged

with conspiring to export automobile casings to Mexico without a permit issued for their lawful exportation. Petitioner was tried at the same term of Court before a jury and was found guilty on all five counts in said indictment. Motion for new trial was timely filed and upon said motion being overruled Petitioner duly perfected his appeal to the United States Circuit Court of Appeals for the Fifth Circuit, after the trial court had imposed sentence of imprisonment for thirteen months on Counts One, Two and Three and thirteen months on Counts Four and Five. On February 19, 1947, the Honorable Circuit Court of Appeals affirmed the judgment and sentence of the trial Court. Your Petitioner timely filed a motion for re-hearing in said Court which motion was denied on March 14, 1947, to review which action a Writ of Certiorari is sought by your Petitioner.

The grounds upon which Petitioner seeks a review and reversal of the action of the Honorable United States Circuit Court of Appeals are:

(a) The Trial Court's charge did not contain the minimum requirements of the law to define the offense with which the Petitioner was charged and of which he was convicted. (Page Eight, Tr. of Record.)

(b) It was a fundamental error for the Court to charge on the weight of the testimony. (Page 9, Tr. of Record.)

(c) The Charge of the Court required the jury to find Petitioner guilty on four counts though the testimony might show a single violation if any. (Page 10, Tr. of Record.)

(d) The charge of the trial court with reference to the law applicable to Appellant's defense that he was an Informer is not the law. (Page 11, Tr. of Record.)

(e) It was fundamental error for the trial court to fail to charge the jury in appropriate terms on accomplice testimony upon which the Government relied for conviction. (Page 7, last paragraph, Tr. of Record.)

WHEREFORE, your Petitioner respectfully prays that a Writ of Certiorari be issued out of and under the seal of this Honorable Court, directed to the United States Circuit Court of Appeals for the Fifth Circuit, commanding that Court to certify and send to this Court for its review and determination on a day certain to be therein named, a full and complete transcript of the record and all proceedings in the Case Numbered and entered on its docket Number 11825, Isaac T. Rackley, Appellant, *vs.* United States of America, Appellee, and that the said judgment of the United States Circuit Court of Appeals may be reversed by this Honorable Court, and that your Petitioner may have such other and further relief in the premises as to this Honorable Court may seem meet and just and for which your Petitioner will ever pray.

ISAAC T. RACKLEY,
Petitioner,
349 First Natl. Bank Bldg.,
El Paso, Texas.